
(2020) 10 DEL CK 0082

In the Delhi High Court

Case No : Letter Patent Appeal No. 297 Of 2020

Riddhima Singh Through: Her Father Shailendra Kumar Singh	APPELLANT
Vs	
Central Board Of Secondary Education & Ors	RESPONDENT

Date of Decision : 12-10-2020

Acts Referred:

Citation : (2020) 10 DEL CK 0082

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ;Prateek Jalan, J

Bench : Division Bench

Advocate : Shailendra Kumar Singh, Amit Bansal, Seema Dolo, Narender SinghYadav, Manu Prakash Upadhyay, Aishwariya Rao, Sumit Jain

Final Decision : Dismissed

Judgement

D. N. Patel, CJ

Proceedings in the matter have been conducted through video conferencing.

C.M.No.25657/2020 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

LPA 297/2020 & C.M.No.25656/2020(stay)

1. This letters patent appeal has been preferred by the original petitioner, being aggrieved and feeling dissatisfied with the order dated 30th September, 2020 passed by the learned Single Judge in C.M.No.24056/2020 in W.P.(C) 6007/2020. The writ petition remains pending before the learned Single Judge.

2. In the aforesaid writ petition, the petitioner (through her father, who has appeared and argued in person, both before the learned Single Judge and in this appeal) has ventilated various grievances against the school in which the petitioner is enrolled. These relate inter alia to the fees charged, the books

prescribed and the financial affairs of the school. As stated in the writ petition, the petitioner has not been permitted to attend the school for several months now. The prayers in writ petition read as under:-

"1. To issue an writ of mandamus to the respondent no 1 to allow Petitioner to appear in Secondary and senior secondary Examinations conducted by respondent without any level of discrimination in examination or result with respect to regular students, failing which the applicant shall suffer irreparable loss and injury.

2. To issue such further order / s to respondents as this Hon'ble court may deem fit and proper in the facts and circumstances of the case."

3. During the pendency of the writ petition, the petitioner has filed an application, being C.M. No.24056/2020 in W.P.(C) No.6007/2020, with the following prayers:-

"1. to issue appropriate direction to respondents for analysis if 4 months of time is adequate for class IX study and completion of syllabus, failing which the petitioner shall suffer irreparable loss and injury.

2. to issue direction to respondents to pay compensation to petitioner, an amount of 10% of annual income of respondent no.3 school and Trust/Society running respondent no.3 school for the period of 30 Months due to irrecoverable damage, or reasonable amount this Hon'ble court may deem fit and proper in the facts and circumstances of the case and irrecoverable damage in last 30months to petitioner.

3. to give punishment to respondent no.3 for making such intentional crime as this Hon'ble court may deem fit and proper in the facts and circumstances of the case keeping view to prevent such cases in future.

4. to give direction to respondent No.1 to make mandatory provision for school management committee for its affiliated school, where parents representative to be selected as per procedure described by state in RTE rules in time bound manner.

5. to issue direction that in absence of school management committee and its members details on school website/public domain, respondent No 1 affiliated schools will be prohibited to collect fee or issue any new rules or direction of school.

6. to issue direction that all rules / regulations / actions in school related to students, books, etc ... will be valid only when such rules/actions is supported with details of minutes of meeting of school management committee along with attendance of school management committee members.

7. to issue direction to respondent No.1 to pay compensation to petitioner for not fulfilling its responsibility as stated by state in its response, towards responsibility of state against respondent no 1 affiliated unaided private schools.

8. to issue direction to respondent No1 to adhere, accept, and fulfill responsibility as mentioned by state response towards responsibility of state against respondent no 1 affiliated unaided private schools.

9. to issue direction to respondent No1 to audit irregularities of respondent no3 school and also to check if Trust/Society running this school is really fit to run school.

10. to issue direction to respondent no2 to take action against respondent no3/ school, as city magistrate investigation already given report that respondent no3 debarred petitioner from school.

11. to issue such further order/s to respondents as this Hon'ble court may deem fit and proper in the facts and circumstances of the case."

4. In the course of the writ petition, an order dated 10th February, 2020 was passed by the learned Single Judge, whereby it was directed that on 17th February, 2020, the original petitioner will give the exam of Standard-VII. Further schedule was given vide order dated 10th February, 2020 that if the original petitioner clears Standard-VII examination, then on 7th April, 2020, the examination for Standard-VIII will be taken, and she would be promoted to study in Standard-IX depending upon the result thereof.

5. However, because of the present COVID-19 pandemic situation, then examination of this petitioner for Standard-VIII could not be taken on 7th April, 2020, as per the order dated 10th February, 2020.

6. It appears that there was long drawn correspondence preferred by the appellant for taking the examination and such other relevant issues. Thereafter, C.M.No.24056/2020 was preferred in the writ petition with the prayers as stated hereinabove. It appears that the prayers in the writ petition and the prayers in the application are entirely different, and have little connection.

7. Nonetheless, keeping in mind the above factual situation and the contentions of the original petitioner, the learned Single Judge directed the respondent no. 3-school to take the Standard-VIII examination of the petitioner within four weeks and to enrol her in Standard-IX if she clears the said examination. In paragraph 8 of order of the learned Single Judge dated 30th September, 2020 passed in C.M.Appl.24056/2020 in W.P.(C)6007/2020, the following observation has been made:-

"8. Keeping in view the wishes of the petitioner and the order dated 10.02.2020, let respondent No.3 school hold Class VIII exam within four weeks from today. In case of any issue while conducting the exam, the petitioner child will not claim any damage from respondent No.3 school. In case, the petitioner child clears the exam in question, she will be admitted in Class IX."

8. The father of the appellant submitted before the learned Single Judge on 30th September, 2020 that she is ready to appear in Standard-VIII examination which

has been directed by the learned Single Judge to be conducted within four weeks from 30th September, 2020. However, now it is stated categorically by the father of the appellant that she does not want to appear in the examination as directed by the learned Single Judge, as there is insufficient time left in this academic year for her to cover the syllabus of Standard-IX. It is submitted that the appellant will appear in Standard-VIII examination whenever the school will take its regular examination which is likely to take place in the month of February-March, 2021.

9. With the aforesaid submissions before this Court, it is now not obligatory on the part of the respondents to take examination of the original petitioner within four weeks from 30th September, 2020 in terms of the order of the learned Single Judge passed in C.M.Appl.24056/2020 in W.P.(C)6007/2020.

10. So far as the other prayers regarding compensation etc. in C.M.No.24056/2020 are concerned, we see no reason to entertain the same in this LPA. The writ petition remains pending before the learned Single Judge, and the petitioner is at liberty to take appropriate steps in the writ petition, if so advised, which will be decided on its own merits. We do not express any view with regard to the merits of the contentions raised by the appellant in this regard.

11. Before parting with this case, we notice the prayers set out in this LPA, which read as under:-

"1. Set aside Impugned order dated 30.09.2020 passed by single judge HMJ Jayant Nath in CM 24056 of 2020 in matter of WP(C) 6007 of 2019 and allow application CM 24056 of 2020.

2. To issue order for investigation by appropriate agency to investigate reason of repeatedly ignoring facts and evidences on record before this court, and not issuing effective direction/order to respondent's especially respondent no1 and respondent no 3.

3. To issue order for investigation by appropriate agency to investigate, why response of state on responsibility towards unaided schools affiliated with respondent no1/CBSE repeatedly ignored by this court, and no direction issued to respondent no1/CBSE.

4. To issue order for investigation by appropriate agency to investigate, why this court released school fee in dispute including prohibited fee head (Annual Charges) by respondent no2/State, to respondent school.

5. Pass such other and further order as this honorable Court may deem fit and proper in the circumstances of the case."

12. Looking to the prayers at Serial No. 2 to 4 in this LPA, the father of this appellant states upon inquiry that he is in search of investigation in respect of the manner in which the learned Single Judge has passed the impugned order on 30th September, 2020 in C.M.24056/2020 in W.P.(C)6007/2020. It appears from

these prayers that this is nothing but contempt of court. As the father of the appellant is appearing in person and has apologised for the prayers contained in the appeal, we are not inclined to issue a notice of contempt against him. But it ought to be kept in mind by Mr. Shailendra Kumar Singh, father of appellant that there cannot be any investigation merely for passing of an order by the learned Single Judge, even if it is a wrong order. Appeal is the remedy available with any aggrieved party. Wrong orders can be corrected or can be quashed and set aside in an appeal, but there cannot be any investigation merely because one of the parties is aggrieved thereby.

13. In view of the aforesaid facts and circumstances of the case, we find no substance in the appeal. Accordingly, the same is dismissed with costs of Rs.25,000/- to be paid by Mr. Shailendra Kumar Singh to Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized by the Delhi State Legal Services Authority for the programme "Access to Justice".

14. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.